

### Notice of Allowability

Application No.

09/308,140

Examiner

Samuel W Liu

Applicant(s)

BYASS ET AL.

Art Unit

1653

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1-2-2004.
2. ☒ The allowed claim(s) is/are 1-4,7,11-14,19,21 and 23-27.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS ( "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- |   |   |
|---|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                    |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>1-29-04</u> . |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No. <u>1-2-04</u> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                            |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                   | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                      |
|   | 9 <input type="checkbox"/> Other  |

### **DETAILED ACTION**

This Office action is in response to applicants' amendments (i) filed 2 January 2004, which amends claims 1-4, 11, 13-14, 21, 23, adds claims 24-27 and cancels claims 15, 18, 20 and 22, and (ii) filed 25 June 2003, which cancels claim 22 and amends claims 1-2, 4, 7, 11, 18, 21 and 23. Also, applicants' request (filed 2 January 2004) for extension of time of two months has been entered.

Thus, the pending claims 1-4, 7, 11-14, 19, 21 and 23-27 are therefore examined in this Office action.

### **EXAMINER'S AMENDMENT**

An Examiner's Amendment to the record appears below. Should the change and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than payment of the Issue Fee.

Authorization for this examiner's amendment was given in a telephone interview with Gerard J. McGowam, Jr. on January 29, 2004.

On communication with Gerard J. McGowam on January 29, 2004, applicants agree to cancel claims 5-6, 8-10 and 16-17 without prejudice.

#### **Amendments to the claims:**

Delete claims 5-6, 8-10 and 16-17.

Claim 2 (*three time amended*): change "(A)-(E)" to "SEQ ID NOs: 1, 2, 4, 3 and 5".

Claim 24 (*amended*): change "SEQ ID No. 7" to "SEQ ID NO:7".

Claim 25 (*amended*): change "the carrot material" to "a carrot".

*Conclusion:* Claims 1-4, 7, 11-14, 19, 21 and 23-27 are allowable over the art of record.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samuel Wei Liu, Ph.D. whose telephone number is (571) 272-0949. The Examiner can normally be reached daily except alternate Fridays from 8:30 A.M. to 5:30 P.M. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christopher Low, can be reached at (571) 272-0951. The official fax phone number for Technology Center 1600 is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

SWL

Samuel W. Liu, Ph.D.

January 29, 2004

Karen Cochrane Carlson PhD

KAREN COCHRANE CARLSON, PH.D.  
PRIMARY EXAMINER